

**City of Eau Claire
Plan Commission Minutes**

Meeting of April 6, 2015

City Hall, Council Chambers

7:00 p.m.

Members Present: Messrs. Weld, Larsen, Pederson, Granlund, Seymour, Hibbard
Ms. Mitchell, Ms. Ebert

Staff Present: Messrs. Tufte, Noel, Johnathan, Genskow

The meeting was chaired by Mr. Weld.

1. CONDITONAL USE PERMIT (CZ-1504) – Home Occupation, 2718 E. Deblene Lane

Mr. Tufte presented a request to allow a home occupation consisting of a neurofeedback brain training service. The basement den would be used for the business with the owner being the sole employee. One to two children a day would receive services, up to six total clients. The surrounding area is all residential zoning. Two letters and a petition in opposition were submitted against the proposal. Subdivision covenants do not pertain to the zoning request but if they apply to this situation it becomes a civil private property matter.

Applicant, J. Darryl Christianson of 2718 E. Deblene Lane, explained that the service is for educational/tutorial training and not psychotherapy. It is to help children develop longer attention spans. It is an alternative to medications. There would be a very low volume of clients during the week, up to six. Services would be for pre-qualified school-aged children. Schools refer children to him. He would be the only LCSW licensed practitioner in the region offering service just to children. He would be the only employee. He presented a petition of support from neighbors and read a support letter from a neighbor located next to him at 2705 E. Deblene Lane. He stated the 1970s covenants may not be with the times, as most home businesses nowadays do not exchange trade-related goods and are more service-oriented.

Linda Locher, 2731 E. Deblene Lane, spoke in opposition. She found there is one more doctor in the region providing neurofeedback. She was against the specific use and did not want a business in the neighborhood, nor more traffic.

Sarah Donnellan, an attorney with Poquette, Donnellan & Schlewitz Law, LLC at 306 S. Barstow Street, stated she is representing Sue Best who lives in the neighborhood. She questioned why Mr. Christianson did not check a box on the application regarding consistency with the covenants, and she believed the application should be considered not complete. She challenged his legal statement that the covenants may not apply based on home businesses being more service-oriented today and stated he is in violation. Further, allowing a home business could become a slippery slope with more locating in the neighborhood and properties could become further de-valued. The protective covenants were meant to ensure those who bought into the development would not lose their investment. After conducting research, there are other doctors like him in the region but he is the only one trying to run it in a home. She stated he could instead find office space to run the small business. There are also vulnerable people living in the area. If the commission approves the permit, they will file for circuit court.

Lori Koepke, 2704 E. Deblene Lane, was supportive of permitting the business and Mr. Christianson is licensed and fully trained. She does not expect more traffic and there is another home that is breaking the covenants which are being very broadly interpreted. She thought the home business would not drastically change the neighborhood.

James Sylte, 1614 E. Deblene Lane, decided to build their home there because of the protective covenants. Mr. Christianson's business should be held in an office setting and not by an elementary school or devalue the homes. Disabled persons live in the area and there are safety concerns that the business could bring, such as more traffic. A comparison between a piano lesson home business verses this intended use is nonsense. He asked to deny the application.

Rod Stenzel, 2715 Darmel Street, stated he does not see there would be a problem with the proposal. There are some other activities in the area that might be violating the covenants. Traffic should not be a problem and the service will be helpful to those children needing it.

Betty Cowley, 1716 Deblene Lane, stated there is a residential home with disabled service nearby and there has been no issue. The covenants may have lapsed if they have not been enforced on other home businesses.

Mr. Christianson responded that his home business would be the only one for children in the area, there is no nurse going to be employed, the checked box does not matter on the completed application because it is advisory, he wants to down-size his current business due to retirement and an office would be more expensive when not using it much. His website deals with current services and not his intended educational tutorial service.

Ms. Ebert stated the home occupation is not a trade use and the tutorial service will be a quiet business similar to piano lessons. Mr. Pederson stated the traffic is not going to be an issue and if it is in violation, then it is a private property dispute. Mr. Larsen stated the zoning code should be followed and the business will be operating only when he is there. The advisory box on the application was addressed sufficiently. Mr. Larsen sympathized with resident concerns, but said the clientele will be children who may possibly attend Sherman Creek Elementary School. Further, if others are offering the same service, it is irrelevant to this application.

Ms. Mitchell stated she is in favor of the majority of the neighbors. Mr. Hibbard noted public objections do not address the actual use, but the restrictive covenants outline what is expected for the homes. Mr. Weld deferred to what the majority residents want.

Ms. Mitchell moved to approve the conditional use permit subject to the conditions of the staff report. Mr. Pederson seconded and the motion carried. Mr. Hibbard, Mr. Weld and Ms. Mitchell voted against.

2. **ANNEXATION (15-2A) – 4312 E. Hamilton Avenue, Town of Washington**

Mr. Tufte presented a request to recommend the petition to annex a lot with a single-family residence at 4312 E. Hamilton Avenue in the Town of Washington. The request is driven by the need to replace a failing septic system.

Mr. Larsen moved to recommend approval of the annexation. Mr. Seymour seconded and the motion carried. Mr. Hibbard abstained from voting.

3. **ANNEXATION (15-3A) – Harless Road and Drier Road, Town of Washington**

Mr. Tufte presented a petition request to annex a vacant parcel of land and one residence from the Town of Washington. The location is at the southeast corner of Harless Road and Drier Road. The 17-acre site is slated for future residential development and City utilities are nearby.

Applicant, Steve Wiggins of 3560 Sharon Drive, spoke in support. The existing house will remain in a lot of the future residential subdivision.

Mr. Pederson moved to recommend approval of the annexation. Ms. Ebert seconded and the motion carried. Mr. Hibbard abstained from voting.

4. **ACQUISITION – 2114 Valmont Avenue**

Keith Johnathan, Executive Director of the Eau Claire Housing Authority presented a request to provide site approval for the acquisition of a single-family home at 2114 Valmont Avenue. The purpose of the homeownership program is to purchase homes in scattered sites throughout the city. There is one other home in the program about four blocks away, but since it is owned currently there should not be a problem because the goal of the program is to stabilize neighborhoods. Often the Housing Authority looks for foreclosed homes or others that yield an affordable purchase price after rehabilitation. The home is sold to qualified first-time home buyers.

Mr. Hibbard moved to approve the acquisition. Mr. Pederson seconded and the motion carried.

5. **FINAL PLAT (P-2-13) – Aspen Meadows II, Final Plat**

Mr. Tufte presented a request to approve a final plat for Aspen Meadows II located north of County Line Road and west of Jeffers Road. The size of the property is 13.23 acres and it has R-2P zoning. The final plat is consistent with the preliminary plat and it creates twin homes on separate lots, sharing a zero-setback middle lot line.

Mr. Granlund moved to recommend approval of the final plat subject to the conditions of the staff report. Ms. Mitchell seconded and the motion carried.

6. **FINAL PLAT (P-4-07) – Westridge Village Marketplace Condo Plat 2nd Addition**

Mr. Tufte presented a request to approve the final condo plat for Westridge Village Marketplace Condominium 2nd Addition. The 1.22 acre R-3P property would have two 5-plex and 3 duplex condo buildings. The final plat is consistent with the preliminary plat and site plans that were approved in 2007. The Phase 1 project was built in 2007, and this 2nd addition proposal is the same as before, although it has lapsed its three-year recording requirement. Conditions are to enter into a development agreement with improvements and bylaws approved before the plat can be recorded. Other conditions are found in the staff report.

Applicant, Steve Wiggins of 3560 Sharon Drive, agreed with the conditions of the staff report.

Mr. Pederson asked staff to check whether there is a sidewalk to the west of this phase, where units are already built.

Mr. Pederson moved to recommend approval of the final condo plat subject to the conditions of the staff report. Ms. Mitchell seconded and the motioned carried.

7. **CERTIFIED SURVEY MAP (CSM-3-15) – Fortune Drive**

Mr. Tufte presented a Certified Survey Map request with right-of-way dedication of a small southeast corner of land at CTH "T" and Fortune Drive within Gateway Business Park. The CSM includes the built roadway and land for additional sidewalks and signals, if and when they are needed. The land along CTH "T" is currently being held by prescriptive use but the CSM will officially dedicate it. Any future site plan will require a 50' setback for the building in case the highway needs to be widened.

Ms. Mitchell moved to recommend approval of the CSM right-of-way dedication. Ms. Ebert seconded and the motion carried.

8. **SITE PLAN (SP-1512) – Master Sign Plan for commercial building**

Mr. Tufte presented a request to approve a site plan for a master sign plan for a multiple-tenant commercial building at 307 S. Farwell Street. A new 6'3" x 8' illuminated sign with reflected lighting would replace the old chamber sign on the south side. The plan is to also remove the second existing sign on the south side when the tenant under contract decides to leave/or discontinue use of the sign. Also, a 6' x 9' tenant listing sign would be placed on the west wall by the common entrance. All proposed changes are consistent with the sign code.

Mr. Larsen moved to approve the site plan subject to conditions of the staff report and future sign permit. Mr. Hibbard seconded and the motion carried.

9. **DISCUSSION/DIRECTION**

A. Comprehensive Plan Update

Mr. Larsen moved to postpone the update and Ms. Mitchell seconded. The motion carried.

B. Code Compliance Items

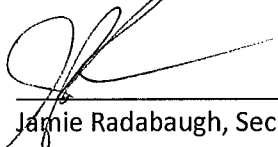
None.

C. Future Agenda Items

None.

D. Additions or Corrections to Minutes

The minutes of the meeting of March 16, 2015 were approved.



Jamie Radabaugh, Secretary